

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT JACKSON

Assigned on Briefs December 5, 2000

**MARVIN ANTHONY MATHEWS v. STATE OF TENNESSEE**

**Direct Appeal from the Circuit Court for Lauderdale County**  
**No. 5314     Joseph H. Walker, III, Judge**

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**No. W2000-01346-CCA-R3-CD - Filed March 9, 2001**

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The defendant appeals asserting that the trial court improperly denied his motion for expungement of records. After review, we conclude that the defendant failed to properly effectuate an adequate record for our review. Therefore, we affirm the judgment of the trial court.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Circuit Court Affirmed**

JOHN EVERETT WILLIAMS, J., delivered the opinion of the court, in which JOE G. RILEY and ROBERT W. WEDEMEYER, JJ., joined.

Marvin Anthony Mathews, Henning, Tennessee, Pro Se.

Michael E. Moore, Solicitor General; Lucian D. Geise, Assistant Attorney General; and Elizabeth T. Rice, District Attorney General, for the appellee, State of Tennessee.

**OPINION**

The defendant, Marvin A. Mathews, appeals the Circuit Court of Lauderdale County's denial of his motion for expungement of records, asserting that the trial court improperly denied his motion for expungement of records relating to the dismissal of an indictment for felony escape. After review, we conclude that the defendant failed to properly effectuate an adequate record for our review. Therefore, we affirm the judgment of the trial court.

**Facts**

On December 13, 1988, the defendant, Marvin A. Mathews, was convicted of grand larceny, which triggered a habitual criminal charge for which he was convicted on the same day. The defendant is currently serving a life sentence. His convictions were affirmed by this Court and the Supreme Court denied his permission to appeal. Mathews v. State, No. 02C01-9309-CR-00223, 1994 WL 525579 (Sept. 28, 1994), perm. app. denied, Jan. 3, 1995. In this case, the defendant

appeals the order of the Lauderdale County Circuit Court denying a motion for expungement of records. The defendant's appeal is properly before this Court and the judgment of the trial court is affirmed.

### **Analysis**

The appellant has the duty on appeal to prepare an adequate record in order to allow a meaningful review. Tenn. R. App. P. 24; State v. Ballard, 855 S.W.2d 557, 560 (Tenn. 1993); State v. Carey, 914 S.W.2d 93, 97 (Tenn. Crim. App. 1995). When no evidence is preserved in the record for review, we are precluded from considering the issue. State v. Roberts, 755 S.W.2d 833, 836 (Tenn. Crim. App. 1988).

In this case, the defendant contends that the trial incorrectly denied his motion for expungement of records. Specifically, the defendant contends that he is entitled to have his record expunged as to indictment number 5314. He alleges in his brief that he was indicted on May 12, 1993, for felony escape and the indictment on this matter was dismissed on May 10, 1993. However, the defendant failed to include in the record on appeal:

- any indictment charging felony escape;
- any evidence that an indictment was ever dismissed;
- any motion for an expungement of any records;
- any transcripts of evidence or hearings; or
- any evidence of an appeal and reversal of a conviction.

Furthermore, the defendant alleged in his brief that he was indicted on May 12, 1993, and the trial court dismissed the indictment on May 10, 1993, which is chronologically impossible. Although this allegation in the defendant's brief may in fact be a typographical error, the defendant presented no evidence of such proceedings for our review.

### **Conclusion**

The lack of evidence in the record, in conjunction with the defendant's chronologically impossible allegation of the course of proceedings, clearly precludes this Court from considering whether the trial court improperly denied any motion by the defendant for expungement of records.

Accordingly, the judgment of the trial court is affirmed

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JOHN EVERETT WILLIAMS, JUDGE